IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/02/2003

CORAM

THE HONOURABLE MR.JUSTICE V.KANAGARAJ

CRIMINAL ORIGINAL PETITION NO.760 OF 2003
AND
CRL.M.P.NO.316 OF 2003.

P.Chandrasekaran ... Petitioner

-Vs-

1.State, represented by
The Inspector of Police,
Women Police Station,
Cantonment,
Tiruchirapalli-1.
(Cr.No.30/2002)

2.K.Vennila ... Respondents

(The second respondent is impleaded
as per the order dated 27.2.2003
made in Crl.M.P.NO.1016/2003)

Criminal Original Petition filed under Section 482 of the Code of
Criminal Procedure for the relief as stated therein.

!For petitioner : Mr.M.Ravindran,
senior counsel for
Mr.K.Thiruvengadam

^For 1st Respondent: Mr.O.Srinath,
Govt.Advocate(crl.side)

For R.2 : Mr.R.Vijayaraghavan

:O R D E R
The petitioner, who is the first accused in Cr.No.30/2002 on
the file of the first respondent Police has come forward to file the above
criminal original petition praying to call for the said FIR registered against
him and others for the offences punishable under Sections 4 66, 468 and 474
IPC and quash the same.

2. Tracing the history of the case as it is narrated in the
above criminal original petition, the petitioner would allege that the first

respondent, registering the above case, had caused his arrest on 1.1 2.2002 and produced him before the Judicial Magistrate No.2, Tiruchirapalli, who, after certain clarifications, was pleased to remand him to judicial custody and the same Magistrate was also pleased to grant bail on 4.12.2002 itself mainly on ground that the allegations made in this complaint have also been made in the earlier complaint on which a case was registered in Cr.No.43 of 2001; that in the earlier case, the petitioner was granted anticipatory bail by this Court and he was enlarged on bail in the case in hand also.

3. The petitioner would further submit that the marriage in between himself and the defacto-complainant/the second respondent was solemnized on 1.11.1992 and a son was born from out of the lawful wedlock in the year 1993; that on allegation that he is living in illicit intimacy with his co-worker/the second accused in the case, differences of opinion persisted for nearly five years in between himself and his wife/the second respondent and ultimately they got separated from 1 .3.2000 and the second respondent started living with her parents; that on account of mediation, though the petitioner and his wife again joined, on allegation that the petitioner did not severe his connection with the second accused, the second respondent left his company again and thereafter she filed a private complaint on 9.10.2001 before the Court of Judicial Magistrate No.2, Tiruchirapalli against the petitioner and his family members on the same facts as it had been in her earlier complaint dated 5.12.2000 and this complaint was forwarded by the Judicial Magistrate to the respondent under Section 156(3) Cr.P.C. for investigation and the first respondent registered the case for offences punishable under Sections 498-A,323,406 and 506(II) IPC in Crime No.43/2001; that he was also placed under suspension by his employer, the Life Insurance Corporation of India.

4. The petitioner would further submit that in her complaint dated 9.10.2001, on which the case in Cr.No.43/2001 had been registered, his wife alleged not only the dowry harassment but also forgery, but the first respondent did not register the case for the allegations of forgery but in the second complaint dated 1.12.2002, the case was also registered for offences of forgery and related offences; that the present complaint for offences of forging the marriage certificate is nothing but an abuse of process of Court intended to harass the petitioner and therefore it is just and necessary to quash the FIR in Cr. No.30/2002.

5. In the above criminal original petition, the wife of the petitioner would file a petition in Crl.M.P.No.1016 of 2003 seeking to implead her as the second respondent and the same having been allowed by this Court, she is also heard as a party to the proceeding for a binding decision to be made in the above criminal original petition.

6. In her petition, the second respondent would submit that the petitioner is having illicit intimacy with one Mini Ramachandran and in spite of having knowledge of the said affair not only by her but also by all the members of both the families, the petitioner discarded all the solemn appeals and peaceful persuasions made on her part and the elders of her family and not only continued illicit intimacy with the said lady but also started neglecting her and her son besides harassing her by demand of dowry and

without being able to bear with the petitioner's such persecutions, she not only took asylum with her parents but also lodged the complaint before the concerned Magistrate and the same having been referred to under Section 156(3) Cr.P.C., the case in Cr.No.43/2001 came to be registered by the respondent and only during the course of investigation, she made her own enquiries in the Sub Registrar's office pertaining to the marriage certificate that she came to be in possession of to the effect that the petitioner and the said Mini Ramachandran got married and ultimately it came to be known that it was a fraudulent document and no registration of such marriage ever took place in the office of the concerned Registrar of Marriages and she was further given to the knowledge that the concerned Registration Certificate bearing Nos.155/95 related to the marriage of one Elamurugan and Arathi; that the Sub Registrar also issued a letter to the true facts and circumstances which on being produced before the respondent Police, it came to be detected that making use of the forged marriage certificate, they both have not only opened the bank account in HDFC Bank, but also using the same as genuine, created many false documents to achieve their illegal objects including to leave India so as to be settled abroad once and for all; that on these true facts and circumstances revealed, the respondent Police came forward to register the second case against the petitioner and the same cannot be dubbed as on the facts and circumstances covering the earlier complaint. On such averments, the second respondent would seek to dismiss the above criminal original petition.

7. During arguments, at the time that the above criminal original petition came for admission and later, the learned senior counsel appearing on behalf of the petitioner would submit that the wife of the petitioner is in the habit of lodging complaint after complaint and so far she has lodged three complaints, the first one on 5.12.2000, which the police enquired into and referred the same as false, the second complaint dated 9.10.2001 as a private complaint before the Magistrate which, on being referred to the respondent police under Section 1 56(3) Cr.P.C., a case was registered and after investigation, the charge-sheet was filed in C.C.No.546 of 1992; that the third complaint was filed on 1.12.2002 before the Commissioner of Police, Trichy, who forwarded the same to the City Crime Branch Police, Trichy and the case is registered in Cr.No.30/2002 for the offences punishable under Sections 466, 468 and 474 of the IPC; that on the complaint registered in Cr.No.43/2001, a case was registered under Sections 498-A and 506 (II) r/w.34 IPC and the same having been charge-sheeted, has been taken on file by the Court in C.C.No.546/2002 and in these circumstances, the learned senior counsel for the petitioner would come forward to allege that on one and the same allegations, both the cases have come to be registered and therefore would seek to quash crime No.30/20 02, which is under investigation on the file of the first respondent.

8. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned counsel for both, what could be gathered on a overall consideration of the entire case is that the petitioner has gone astray from the marital bondage of the second respondent and is alleged to be maintaining illicit intimacy with one Mini Ramachandran, who was a co-worker in the office of the petitioner, which fact

is neither denied by the petitioner nor disowned and on account of th`is illicit connection with the said lady, there had been frequent quarrels between the petitioner and his legally married wife, the second respondent, who is said to be living with her parents with her minor child and the mediation done by elder members of the family has seen the couple got united in the year 2000, but for only a short period and now again they got separated.

9. On the part of the petitioner, he would come forward to allege that the second respondent has withdrawn from his company deliberately. But, on the part of the second respondent, she would come forward to strongly allege that the petitioner has not only fallen a prey to the sexual infatuation with another lady but also discarded the second respondent and her son and started harassing her by demand of dowry etc. and therefore on facts, she gave both the complaints and the first one got registered in Cr.No.43/2001 for offences punishable under Sections 498-A and 506(II) r/w.34 IPC, which is charge-sheeted and is pending trial in the Court of Judicial Magistrate No.2, Tiruchirapalli in C.C.No.546 of 2002.

10. It is the further case of the second respondent that on another specific complaint filed before the Commissioner, City Police, Tiruchirapalli, the present case in Cr.No.30/2002 was registered by the first respondent for the offences punishable under Sections 466,468 and 474 IPC and the same is under investigation, which is sought to be quashed in the above criminal original petition.

11. Now, the point for consideration is `whether the offences in both the complaints lodged by the second respondent are one and the same and whether the case registered in Cr.No.30/2002 should be quashed?'

12. Since being in exercise of the inherent powers conferred on this Court by Section 482 of the Code of criminal Procedure, this Court cannot go very deep into the facts and circumstances encircling the whole affair as it comes to be pleaded on both sides and this Court has to exercise utmost restraint while commenting on such facts since such comments made, should not, in any manner, hinder the trial to be held in the case registered in C.C.No.546/2002, which is pending trial before the Magistrate's Court or even the case registered by the respondent in Cr.No.30/2002, which is pending investigation by the first respondent and therefore only on the outer periphery of the legality involved, this Court could see the aspects connected to the cases pending before the Magistrate's Court and the first respondent.

13. Barely looking into the offences registered in Cr.No.43/2001, it could be said that it is a matter in which the investigation has been completed and the charge-sheet filed and the matter is pending trial in C.C.No.546/2002 for the offences punishable under sections 498-A and 506(II) r/w.34 IPC and the other matter, which is the subject matter of the criminal original petition for quash, is admittedly under investigation by the respondent for the offences punishable under Sections 466, 468 and 474 IPC. The main charge of the petitioner is that on one and the same allegations, both these cases have been registered and that the same police, who have

earlier discarded certain facts to be false in the case connected to Cr.No.43/2001, have now taken up the same facts for investigation in the new case registered and therefore the said act of the first respondent in registering a second case on one and the same allegation is illegal and hence the quash petition.

14. But, on a careful perusal, this Court is able to see that the case pending before the Court in C.C.No.546 of 2002 is registered for offences punishable under Sections 498-A and 506(II) r/w.34 IPC and the present case has been registered for offences punishable under Section 466,468 and 474 of the IPC and there seems to be no connection between both these cases and it is the case of the second respondent that the offences regarding forgery since not being able to be clearly established and detected earlier, they have not been able to be part of the earlier case and hence on definite proof on the conclusions arrived at on thorough enquiry, the second complaint had been lodged for the offence of forgery and the present case is rightly registered by the respondent and the same is under investigation, which cannot, in any manner, be termed either illegal or arbitrary or unreasonable and this Court is not able to reject the arguments of the second respondent. Moreover, it is for the Investigating Officer to arrive at a valid conclusion who seems to be the same Police, the first respondent herein, who has charge-sheeted the other case also and therefore being apprised of the whole facts and circumstances of the case, the first respondent will be in a better position to conclude fairly at the close of investigation. Therefore, under these circumstances, the only conclusion that could be arrived at by this Court is that no strong reasons or legal grounds exist for this Court to make any interference as it is sought to be made on the part of the petitioner into the case registered by the first respondent and said to be under investigation in Cr.No.30/2002 for the offences punishable under Sections 466,468 and 474 IPC and hence the following order:

In result, the above criminal original petition is without merit and the same is dismissed as such.

Consequently, Crl.M.P.No.316 of 2003 is also dismissed.

27.2.2003.
Index: Yes
Internet: Yes
Rao

To
1.The Inspector of Police,
Women Police Station,
Cantonment,
Tiruchirapalli-1.

2.The Judicial Magistrate No.2,
Tiruchirapalli.

3.The Public Prosecutor,

High Court, Madras.